

# HOUSE BILL REPORT

## HB 2069

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**As Reported by House Committee On:**  
Community & Economic Development & Trade

**Title:** An act relating to creating community facilities districts.

**Brief Description:** Creating community facilities districts.

**Sponsors:** Representative Sullivan.

**Brief History:**

**Committee Activity:**

Community & Economic Development & Trade: 2/18/09, 2/19/09 [DPS].

**Brief Summary of Substitute Bill**

- Authorizes establishment of community facilities districts and sets out parameters for their formation, governance, powers, and finances.

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### HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kenney, Chair; Maxwell, Vice Chair; Chase, Liias, Probst and Sullivan.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Smith, Ranking Minority Member; Orcutt and Parker.

**Staff:** Meg Van Schoorl (786-7105)

**Background:**

A Local Improvement District (LID) is a special district as a means of assisting in the financing of and payment for needed capital improvements. The LIDs are formed by cities to permit the improvements to be financed and paid for over a period of time through assessments on the benefitting properties.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A Public Facilities District (PFD) created under the City PFD statute may only develop and operate “regional centers,” which include convention, conference, or special events center, or a combination, and related parking facilities. A PFD formed under the County PFD statute may develop and operate sports facilities, entertainment facilities, and convention facilities, in addition to “regional centers,” and contiguous parking facilities. A PFD has the power to impose taxes, generate project revenues from user fees, and issue tax-exempt or taxable general obligation bonds or revenue bonds.

A Public Development Authority (PDA) is created by a city or county to: administer and execute federal grants or programs; receive and administer private funds, goods, or services for any lawful purpose; and to perform any lawful public purpose or public function. A PDA is often created to manage development and operation of a single project outside traditional local government lines. A PDA can issue tax-exempt bonds, but has no power of eminent domain or taxing authority. The Pike Place Market in Seattle is an example of a PDA.

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### **Summary of Substitute Bill:**

#### Part I -- Findings, Intent, Definitions.

The Legislature finds that in most areas of the state projected to accommodate substantial growth, there are inadequate community facilities and infrastructure to facilitate and support that growth. Public financing and financing mechanisms are also inadequate. A Community Facilities District (CFD) is a flexible mechanism that will facilitate voluntary landowner financing of community facilities and local, sub-regional and regional infrastructure. A "CFD" is a municipal corporation, an independent taxing authority under Article VII Section 1 of the State Constitution, and a taxing district within Article VII Section 2 of the State Constitution that is created by a vote of the people. A "petition" is a voluntary landowner request to form a CFD, and submit their land to certain authorized taxes and benefit charges. A petition can be amended as provided.

#### Part II -- CFD Formation.

The establishment of the CFDs is authorized. The following steps are required to form a CFD:

*Petition.* A petition must be filed with the county, city, or town in which the district is located. All persons with an ownership interest of record in the lands within the proposed district must execute the petition. The petition must include certification of the landowners' desire to voluntarily submit their land within the district to the taxes and benefit charges. It must also designate the boundaries or describe the included lands, as well as explaining the object, plan, and financing for creating the CFD. The petition must allege that establishing the CFD will be conducive to the public safety, welfare, convenience, and a benefit to the included property. There must also be an "obligation" signed by at least two petitioners agreeing to pay the formation process costs.

*Public Hearing.* Between 20 and 40 days after a petition is received by the local legislative authority, there must be a public hearing. Notice of the hearing must be published and posted at prescribed places and times. During the hearing, the legislative authority must receive evidence in favor of or opposed to the CFD formation and the inclusion or exclusion of lands. If the legislative authority considers the petition and finds that the lands will be benefited and that the CFD formation would be conducive to the public safety, welfare, and convenience, it must make a finding by resolution or deny the petition.

*Appeal.* A person or entity having a substantial interest and feeling aggrieved by the results of the proceedings may appeal within five days to the county superior court. Five days after the resolution is approved and certified copies have been filed, the creation of the district is complete and its legal existence cannot thereafter be questioned by anyone on grounds of procedural defect.

*Election.* After the appeal period has expired or the court hearing an appeal has upheld the CFD formation, an election must be held in accordance with the state's general election laws to fill the initial commissioner positions. The CFD commission must always have the following three members, each for a six-year term: the largest landowner within the CFD; a voter residing within the CFD; and an elected official from the legislative authority that approved the CFD formation. The largest landowner must be automatically added to the ballot and requires one vote to be approved. Any voter residing within the district may add their name to the ballot. The legislative authority must nominate one or more of its members for candidacy. The polling places can be inside or outside the district boundaries and their placement will not make the election irregular or void. The candidates receiving the highest number of votes will be declared by the legislative authority as elected.

### Part III -- Community Facilities District Commission.

The Community Facilities District Commission (Commission) must manage the CFD in accordance with public records and open public meetings laws. A majority of the Commission constitutes a quorum. The Commission must conduct CFD business affairs, make and execute contracts, employ necessary services, and adopt reasonable rules.

### Part IV -- The CFD Powers.

*General Powers.* A CFD is a political subdivision of the state and is a municipal corporation within the laws and State Constitution. A CFD has all the usual powers of a public corporation as well as all other specific powers now or in the future conferred by law. All of the CFD actions must be consistent with the terms and conditions of the petition or amended petition.

*Specific Powers.* A CFD has full authority to carry out its purposes and may: acquire, purchase, hold, lease, manage, occupy, construct, and sell real and personal property, facilities, or interests in order to perform contracts; appoint and employ officers, agents, and employees; sue and be sued; and levy and enforce collection of taxes, assessments, and benefit charges. Any CFD may lease, acquire, own, maintain, operate, construct, and provide facilities, machinery, and equipment for the CFD operations and projects, as well as related real property, improvements, and fixtures.

*Eligible Infrastructure and Facilities.* A CFD may finance through taxes, assessments, and benefit charges the costs of planning, designing, purchasing, constructing, expanding, improving, or rehabilitating any facility with an estimated life of five years or more. A non-exhaustive list of the types of infrastructure, community facilities, and improvements authorized for the CFD financing is provided. However, a CFD is not authorized to finance general government operations and services. A CFD may construct, finance, or invest in community facilities inside or outside the district boundaries, if the facility provides benefit to the district and its properties.

*Bonding Authority.* The Commission may contract indebtedness for any general district purpose including maintenance, operations, and administrative expenses and may issue and sell general obligation or revenue bonds payable within 20 years. Such bonds may be issued together with any outstanding nonvoter-approved general obligation indebtedness up to the amounts allowed under the state Constitution. A CFD may also incur general indebtedness for capital purposes, issue general obligation bonds up to the limits provided under the State Constitution, and retire the bonds through excess property tax levies and benefit charges.

*Taxing Authority.* A CFD may levy annually, for payment of principal and interest on outstanding general obligation bonds, an *ad valorem* tax on all taxable property located in the district. The tax levy must be consistent with the terms of the petition, other legal requirements, and limits imposed under the State Constitution. Tax levies are part of the general tax roll and must be collected as a part of the general taxes against the property in the district. A CFD may also accept and receive donations of money or property.

#### Part V -- The CFD Finances.

The county treasurer must: receive and disburse district revenues; collect taxes, benefit charges, and assessments; maintain funds; credit revenues to the proper fund; and report to the Commission monthly on receipts and disbursements for each fund.

#### Part VI -- The CFD Benefit Charges.

A CFD may by resolution impose a benefit charge to be paid by owners of personal, real property, and real property improvements located within the district. The benefits charged must be reasonably proportioned to the measurable benefits that result from the district's facilities and services. The resolution must specify the charge to apply to each property. Prior to imposing the benefit charges, the CFD must contract for the administration and collection of the charge by each county treasurer. A percent of the benefits charged must be provided to the county treasurer and assessor to administer this resolution and this chapter.

#### Part VII -- Impact Fees.

A CFD may not be required to pay an impact fee as provided under the general provisions of the excise tax code.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill includes:

- fewer requirements for the CFD formation in terms of petition signatures, approvals, and election processes;
- difference in the Commission's composition, qualification, and numbers;
- references to State Constitutional limits on bonded indebtedness for capital and operating purposes rather than quantified limits in statute;
- references to State Constitutional limits on *ad valorem* taxes rather than quantified limits in statute;
- no exemptions from, or lowering of, the benefits charges based on income limitations or ownership of property by religious organizations;
- no forgiveness of all, or part of, the property tax levies in exchange for imposition of benefits charged, and no local vote to impose the charges; and
- no provisions for withdrawing territory from a CFD, merging two or more of the CFDs into a regional communities facilities district, or dissolving a CFD.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The Growth Management Act has done a great job of regulating, but not facilitating, growth. CFDs are a badly needed, flexible, and voluntary tool to develop the facilities and infrastructure needed to accommodate and support growth. The CFDs are likely to be targeted mostly at areas with tracts of raw land for planned development by one to three owners. However, the CFDs can also work in some urban cores undergoing redevelopment. The CFDs require 100 percent approval of affected landowners, have financing tools such as excess levies, benefit charges, and bonding authority, and can construct an expansive list of significant public improvements. The CFD can finance improvements within or outside of its boundary. The CFD can be used to build a freeway entrance, a library, a transit facility, and much more. When people buy a home in a CFD, it will be known upfront what benefits and costs will be assumed because the information will be on the sales contract. The CFDs pay for infrastructure without impacting any other taxing entity, including local governments and special purpose districts.

(Opposed) None.

**Persons Testifying:** Representative Sullivan, prime sponsor; David Ducharme and John Hempelmann, Yarrow Bay Group; Greg Hanon, National Association of Industry and Office Properties; and Ashley Probart, Association of Washington Cities.

**Persons Signed In To Testify But Not Testifying:** None.